



July 6, 2023

**By Electronic Case Filing**

The Honorable Nancy E. Brasel  
District of Minnesota  
Diana E. Murphy United States Courthouse  
300 South Fourth Street, Suite 202  
Minneapolis, MN 55415

**Re: *Melinda and Mark Loe, et al. v. Willie Jett, et al.*, No. 0:23-cv-01527-NEB-JFD**

To The Honorable Judge Brasel:

Plaintiffs respectfully request permission to file a motion for partial summary judgment on Counts I, III, V, and VI of their complaint before the discovery deadline.

In this case, Plaintiffs challenge the constitutionality of the Act of May 24, 2023, ch. 55, art. 2, sec. 45, which amended the definition of “Eligible Institution” in Minnesota Statutes section 124D.09 subdivision 3(a). Under the new law, postsecondary schools that ask their students to sign a “faith statement” or select students based on “religious beliefs or affiliations” are excluded from participating in the Postsecondary Enrollment Options (PSEO) program. Plaintiffs are religious schools that are now barred from the program and Minnesota parents and students who want to participate in the PSEO programs offered by Plaintiff schools but cannot do so because of the new law. Plaintiffs claim that their exclusion from the program violates the First and Fourteenth Amendments of the United States Constitution.

Plaintiffs’ claims can be resolved without the need for discovery. The relevant facts regarding Plaintiffs’ religious beliefs and educational aspirations are laid out in the verified complaint, and the relevant facts regarding the law’s enactment are a matter of public record. Defendants lack any basis for contesting either, and discovery is unlikely to yield any additional relevant facts.

Because the core questions at issue in this lawsuit are legal, it is in the interest of the parties and the Court to move forward without the delay and expense of discovery. *See, e.g., Prisk v. Travelers Indemnity Co. of Am.*, No. 21-cv-1723, 2022 WL 2806375,



at \*1 (D. Minn. July 18, 2022) (granting summary judgment without discovery where only dispute was a “question of law”). This will minimize both the parties’ costs and the Court’s case management obligations.

Accordingly, Plaintiffs respectfully request permission from the Court to move for partial summary judgment before the end of discovery. Defendants have indicated they do not consent to this request.

Respectfully submitted,

/s/ Diana Verm Thomson  
Diana Verm Thomson\*  
Eric S. Baxter\*  
Benjamin A. Fleshman\*  
The Becket Fund for  
Religious Liberty  
1919 Pennsylvania Ave. NW,  
Suite 400  
Washington, DC 20006  
Telephone: (202) 955-0095  
Facsimile: (202) 955-0090  
dthomson@becketlaw.org

Emily E. Mawer  
(No. 0396329)  
Lathrop GPM  
80 South Eighth Street  
500 IDS Center  
Minneapolis, MN 55402

*Counsel for Plaintiffs*